

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PATRICK TRACY, on behalf of himself  
and all other employees similarly situated,

Plaintiff,

ORDER

04-CV-6541L

v.

NVR, INC.,

Defendant.

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**INTRODUCTION**

Defendant NVR, Inc. (“NVR”) has requested that the Court strike plaintiffs’ pending motion for class certification pursuant to Fed. R. Civ. Proc. 23 (Dkt. #693), or in the alternative, stay consideration of the certification motion until after the Court has considered the defendants’ motion for decertification of the FLSA collective action (Dkt. #616), which was filed first. (Dkt. #700). Plaintiffs oppose this request, and urge that the motions be decided simultaneously. (Dkt. #701).

The Court recognizes that the two motions present similar questions, and that its ruling on the first-filed motion for decertification of the collective action may have a determinative effect upon some or all of the plaintiffs’ motion for certification of the class action. Accordingly, in order to maximize judicial efficiency, the motions will be addressed in the order in which they were filed.

The Court will, therefore, consider and decide defendant’s motion for decertification and defendant’s motions for summary judgment as to certain plaintiffs. All other motions will abide the decisions on these motions.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
May 2, 2012.